

## PUBLIC RECORD

Dates: 13/05/2024 - 17/05/2024

**Medical Practitioner's name:** Dr Mohamed HASSAN

**GMC reference number:** 7090999

**Primary medical qualification:** MB BS 2009 Omdurman Islamic University

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

**Summary of outcome**

Erasure  
Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Mr Zia Nabi
Lay Tribunal Member:	Mrs Cindy Mackie
Medical Tribunal Member:	Dr Wasim Qayum
Tribunal Clerk:	Mr Andrew Ormsby

**Attendance and Representation:**

Medical Practitioner:	Not present, not represented
GMC Representative:	Mr Edmund Potts, Counsel

**Attendance of Press / Public**

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

## Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

## Determination on Facts - 14/05/2024

### Background

1. Dr Hassan qualified in 2009 at the Omdurman Islamic University in Sudan.
2. Dr Hassan faces an allegation that having been released on bail to attend Teesside Crown Court on 2 November 2022, he failed without reasonable cause to surrender to custody and deliberately absented himself from engaging in a formal inquiry regarding criminal allegations concerning possession of indecent photographs of a child; distributing indecent photographs of a child/children; and possessing an extreme pornographic image.
3. By letter dated 25 February 2021, Cleveland Police ('the Police') disclosed to the GMC that Dr Hassan had been arrested for the alleged offence of 'Possess to show/distribute indecent photograph/pseudo photograph of a child' and that he had been released under investigation whilst enquiries were ongoing.
4. Dr Hassan also self-referred to the GMC by email dated 2 March 2021.

### The Outcome of Applications Made during the Facts Stage

5. Dr Hassan was neither present nor represented at this hearing. At the outset of the hearing, the Tribunal determined that notice of this hearing had properly been served on Dr Hassan pursuant to Rule 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), and granted an application, made pursuant to Rule 31 of the Rules, that this hearing should proceed in Dr Hassan's absence. The Tribunal's decision is included at Annex A.

## Further background

6. As stated above, the Police arrested Dr Hassan as part of a criminal investigation into possession and distribution of indecent photographs of a child, and the possession of an extreme pornographic image, with it being alleged that indecent videos of a child had been uploaded to the internet from an IP address linked to Dr Hassan. The GMC were notified of the investigation by letter from the Police dated 25 February 2021.

7. On 2 March 2021 Dr Hassan emailed the GMC stating that he was currently working at James Cook University Hospital in Middlesbrough, had been involved in a police investigation in the previous week and was suspended from work temporarily until the investigation had concluded. He did not specify the nature of the allegations made against him.

8. On 28 July 2022 Dr Hassan was charged in person with possession and distribution of indecent photographs; possession of indecent videos of a child; and possession of an extreme pornographic image.

9. By email dated 19 August 2022, Police notified the GMC that Dr Hassan was to appear at Cleveland Magistrates on 5 September 2022 charged with offences as set out in Schedule 1.

10. On 23 August 2022, after having been charged in person and before his first scheduled court appearance, Dr Hassan left the UK, as confirmed by the Police in their email dated 23 January 2023.

11. Dr Hassan failed to attend Cleveland Magistrates court on 5 September 2022 and a further hearing was scheduled on 5 October 2022.

12. On 5 October 2022 Dr Hassan attended the hearing at Teesside Magistrates court remotely via 'live link'. He pleaded not guilty and his case was sent to Teesside Crown court for a Plea and Trial Preparation Hearing on 2 November 2022 at 10.30 a.m.. Dr Hassan was granted bail to attend court on 2 November 2022 and the Notice of Grant of Bail stated that he should attend court 30 minutes before the time fixed for the hearing (i.e. 10 a.m.). Dr Hassan was legally represented at this hearing.

13. It is not in issue that Dr Hassan did not attend Teesside Crown Court on 2 November 2022. This has been confirmed by the solicitors representing Dr Hassan in the criminal proceedings in their email dated 16 November 2022. A warrant of arrest not backed for bail was issued, ordering the police to arrest Dr Hassan and bring him before Teesside Crown Court. This warrant has not been actioned thus far.

### The Allegation and the Doctor's Response

14. The Allegation made against Dr Hassan is as follows:

'That being registered under the Medical Act 1983 (as amended):

1. Having been released on bail to attend Teesside Crown Court on 2 November 2022 for the offences set out in Schedule 1, you:

a. failed without reasonable cause to surrender to custody in respect of the offences referred to at Schedule 1 contrary to Section 6(1) of the Bail Act 1976; **To be determined**

b. deliberately absented yourself from engaging in a formal inquiry regarding the criminal allegations set out at Schedule 1. **To be determined**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.' **To be determined**

### Documentary Evidence

15. The Tribunal had regard to the documentary evidence provided in the service bundle C1 and the hearing bundle C2. This evidence included:

- Email correspondence from the Police to the GMC, various dates;
- Dr Hassan's self-referral to the GMC, dated 2 March 2021;
- Email correspondence from MDDUS representative to the GMC regarding criminal court hearing, various dates;
- Email from Teesside Crown Court to the GMC with copy Indictment dated 16 March 2023;
- Notice of Grant of Bail, dated 5 October 2022;

- Warrant of Arrest (Offence), dated 2 November 2022;
- Rule 7 response from Dr Hassan, dated 24 July 2023; and
- Correspondence between the MPTS and Dr Hassan regarding his MPT hearing, various dates.

16. Dr Hassan did not provide a witness statement or any written representations and did not attend the hearing. Dr Hassan's email to the GMC dated 24 July 2023 stated that "*I won't make any representation and I agree with all the outcomes.*" Subsequently by email dated 27 September 2023 Dr Hassan stated that he did not wish to be engaged in any processes and would not be available as he was in the middle of war in Sudan, and that he accepted the decision that would be taken by the GMC. He effectively repeated his position stating that he was unable to respond to further correspondence in a further email to the GMC dated 15 November 2023. In these emails, despite having the opportunity to do so, Dr Hassan did not address the allegations made against him or seek to explain why he had left the United Kingdom.

### The Tribunal's Approach

17. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Hassan does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred as alleged.

18. The Tribunal has had regard to the case of *Byrne v General Medical Council* [2021] EWHC 2237 (Admin) which confirmed the principle that there is only one standard of proof in all civil cases and that is proof that the fact in issue more probably occurred than not. Further, there is no heightened civil standard of proof in particular classes of case and it is not correct that the more serious the nature of the allegation made, the higher the standard of proof required.

### The Tribunal's Analysis of the Evidence and Findings

19. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

#### Paragraph 1(a) of the Allegation

20. The Tribunal considered whether, having been released on bail to attend Teesside Crown Court on 2 November 2022 for the alleged offences set out in Schedule 1, Dr Hassan failed without reasonable cause to surrender to custody in respect of the offences referred to at Schedule 1 contrary to Section 6 (1) of the Bail Act 1976.

21. In considering this allegation, the Tribunal took the following evidence into account:

- a. Dr Hassan attended Teesside Magistrates Court remotely via live link on 5 October 2022, having been able to instruct criminal solicitors, who subsequently continued to act for him.
- b. The Notice of Grant of Bail dated 5 October 2022 required Dr Hassan to attend Teesside Crown Court on 2 November 2022. The Notice expressly warned Dr Hassan that if he failed to attend court, then a warrant may be issued for his arrest.
- c. The Warrant of Arrest (Offence) dated 2 November 2022, issued by Teesside Crown Court which gave the name of the defendant as ‘MOHAMED HASSAN’, the relevant case number, the alleged offences as set out in Schedule 1, stated that the reason for arrest was “no appearance in answer to bail”.
- d. The email dated 16 November 2022 from Dr Hassan’s criminal defence solicitors, John Robinson & Co, who were representing him in 2022, which stated that Dr Hassan did not attend Teesside Crown Court in person or via video link on 2 November 2022.

22. The Tribunal bore in mind that Dr Hassan had not been convicted of any of the offences listed in Schedule 1 or indeed of failing to surrender under bail. It noted the offence of failing to surrender would normally be dealt with after the defendant had been apprehended or surrendered to custody. The Tribunal noted that this has not happened as, thus far, Dr Hassan has not surrendered to custody or been arrested.

23. The Tribunal took into account Dr Hassan’s email dated 24 July 2023 in which he acknowledged receipt of documents and stated that he would not be making any representations and that he agreed with all the outcomes. It noted that Dr Hassan did not deny failing to attend Teesside Crown on 2 November 2022 and that he did not advance any explanation for the same or seek to argue that he had a reasonable cause for failing to surrender to custody.

24. Having considered the totality of the evidence and the absence of any explanation from Dr Hassan for his conduct, the Tribunal was satisfied on the balance of probabilities that Dr Hassan was released on bail to attend Teesside Crown Court on 2 November 2022 for the offences set out in Schedule 1, and that he failed without reasonable cause to surrender to custody on that date in respect of the offences referred to at Schedule 1 contrary to Section 6(1) of the Bail Act 1976.

25. Accordingly, the Tribunal determined that paragraph 1(a) of the Allegation was found proved.

Paragraph 1(b) of the Allegation

26. The Tribunal considered whether, having been released on bail to attend Teesside Crown Court on 2 November 2022 for offences set out in Schedule 1, Dr Hassan deliberately absented himself from engaging in a formal inquiry regarding the criminal allegations set out at Schedule 1.

27. The Tribunal noted that the Notice of Grant of Bail dated 5 October 2022 required Dr Hassan to attend Teesside Crown Court on 2 November 2022 and expressly warned him that if he failed to attend court, then a warrant may be issued for his arrest. Dr Hassan was legally represented at this time by criminal defence solicitors, and the Tribunal found that he was aware of the importance of complying with his bail conditions and the need to attend court on 2 November 2022. Dr Hassan's solicitors did not suggest that they had provided the Crown Court with any explanation for his failure to attend court on 2 November 2022.

28. The Tribunal further noted that Dr Hassan had advanced no explanation for having left the United Kingdom shortly after having been charged, or for failing to surrender to bail on 2 November 2022. The Tribunal was satisfied that Dr Hassan's email dated 24 July 2023 which stated that he would not be making any representations was effectively an admission that he was unable to provide any valid explanation for absencing himself from the criminal proceedings.

29. In the circumstances, the Tribunal was satisfied that on the balance of probabilities Dr Hassan, having been released on bail to attend Teesside Crown Court on 2 November 2022 for the offences set out in Schedule 1, deliberately absented himself from engaging in a formal inquiry regarding the criminal allegations set out at Schedule 1.

30. Accordingly, the Tribunal determined that paragraph 1(b) of the Allegation was found proved.

### The Tribunal's Overall Determination on the Facts

31. The Tribunal has determined the facts as follows:

'That being registered under the Medical Act 1983 (as amended):

1. Having been released on bail to attend Teesside Crown Court on 2 November 2022 for the offences set out in Schedule 1, you:

a. failed without reasonable cause to surrender to custody in respect of the offences referred to at Schedule 1 contrary to Section 6(1) of the Bail Act 1976; **Determined and found proved**

b. deliberately absented yourself from engaging in a formal inquiry regarding the criminal allegations set out at Schedule 1.

**Determined and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.' **To be determined**

### Determination on Impairment - 15/05/2024

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved, Dr Hassan's fitness to practise is impaired by reason of misconduct.

### The Evidence

2. The Tribunal has taken into account all of the evidence received during the facts stage of the hearing and its findings of fact.

### Submissions



Submission on behalf of the GMC

3. Mr Potts submitted that Dr Hassan’s fitness to practise was currently impaired by reason of misconduct and that the Tribunal’s findings that (a) Dr Hassan had failed without reasonable cause to surrender to custody on 2 November 2022 contrary to Section 6(1) of the Bail Act 1976 and (b) had deliberately absented himself from engaging in a formal inquiry regarding the criminal allegations against him could each amount to serious misconduct, let alone when taken together.
4. Mr Potts submitted that Dr Hassan’s failure to surrender to custody without reasonable cause and breaching his bail leading to a warrant of arrest being issued, was serious misconduct because it represented a deliberate disregard for the law which fell below the standards that should be expected of a doctor.
5. Further, Dr Hassan’s deliberate absencing of himself from a formal inquiry into the criminal allegations against him impacted upon the profession as a whole. By not complying with his bail condition and deliberately absencing himself from the ongoing criminal proceedings, the public were denied the protection which would have been afforded by those proceedings. Mr Potts emphasised that there had been no explanation given by Dr Hassan for his actions in absencing himself from the formal inquiry into the criminal allegations against him.
6. Mr Potts invited the Tribunal to consider Domain 4, “Trust and Professionalism” of *Good Medical Practice* (2024) (‘GMP’) and in particular paragraph 81 which requires a Doctor to make sure that their conduct justifies patients’ trust in them and the public’s trust in their profession; and paragraph 98 which requires a Doctor to co-operate with legal and regulatory requirements, including co-operating with formal enquiries and complaints procedures, to provide all relevant information and to be open and honest.
7. Mr Potts submitted that the proper course of action for a doctor when charged with criminal offences, even if those offences are strenuously denied, was to engage with proceedings, to follow all orders of the court, and to surrender to bail when and where required to do so, and to do otherwise inevitably constituted serious misconduct. He asserted that on the basis of the facts found proved, Dr Hassan’s actions had breached fundamental tenets of the profession.

8. Mr Potts submitted that the sentencing guidelines on indecent photographs of children provided that someone convicted of possession of Category A images would have a starting point of one-year imprisonment. He emphasised that the GMC did not seek any finding in relation to the substantive criminal offences with which Dr Hassan had been charged and reminded the Tribunal that there was a presumption of innocence in law which was not negated in any way by the seriousness of the criminal charges.

9. Nonetheless, Mr Potts submitted that the Tribunal may properly have regard to the nature and seriousness of the charges against Dr Hassan when considering the standards of conduct which would be expected of a doctor charged with those offences, and, in particular, the importance of co-operating with the proceedings brought against them.

10. Mr Potts submitted that the public's trust in the profession would reasonably be undermined if a doctor, when faced with serious criminal allegations, were seen to depart the country rather than co-operate with the formal inquiry against them, and that such conduct would bring the profession into disrepute.

11. Mr Potts reminded the Tribunal that Dr Hassan was still '*at large*' and had not surrendered himself to custody. He further stated that Dr Hassan had not indicated that he had any intention of returning to the UK or of co-operating with the outstanding criminal proceedings against him.

12. Mr Potts submitted that the public would have no confidence that Dr Hassan would act with integrity or within the law having shown such a disregard for the criminal justice system in his actions. He submitted that proper professional standards needed to be upheld and that public confidence in the profession would be undermined were a finding of impairment not made.

13. Mr Potts concluded by stating that there should be a finding of impairment on public interest grounds and this was required in order to uphold the second and third limb of the overarching statutory objective namely to promote and maintain public confidence in the medical profession; and promote and maintain proper professional standards and conduct for the members of the profession.

## The Relevant Legal Principles

14. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal’s judgement alone.
15. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: firstly, to consider whether the facts as found proved amounted to serious misconduct, and if so, secondly to consider whether Dr Hassan’s fitness to practise was currently impaired.
16. The Tribunal must determine whether Dr Hassan’s fitness to practise is impaired today, taking into account Dr Hassan’s conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied, and any likelihood of repetition.
17. The Tribunal is also required to have regard to the wider public interest and to consider whether a finding of impairment is necessary in order to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of that profession.
18. There is no statutory definition of misconduct or impairment. It was held in *Roylance v GMC (No.2)* [2000] 1 AC 311, that misconduct is ‘a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances’ and that ‘the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances’.
19. With regard to impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 (Admin) which posed four questions to consider when determining whether a doctor’s fitness to practise is impaired:
1. Has the doctor in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
  2. Has the doctor in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or
  3. Has the doctor in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

4. Has the doctor in the past acted dishonestly and/or is liable to act dishonestly in the future?

20. The Tribunal further had regard to the case of *Grant*, in particular, paragraph 74 of the judgment:

*‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.’*

### The Tribunal’s Determination on Impairment

#### Misconduct

21. In reaching its determination as to whether the allegations found proved against Dr Hassan amounted to serious misconduct, the Tribunal acknowledged that although Dr Hassan faced serious charges, he was presumed innocent until proven guilty.

22. The Tribunal took into account its findings that Dr Hassan had left the country soon after being charged with serious criminal offences and, despite being able to arrange legal representation, had subsequently breached his bail conditions leading to a warrant for his arrest, and deliberately absented himself from engaging with the formal enquiry into the serious criminal allegations against him. The Tribunal also noted that Dr Hassan had failed to provide any explanation for his actions and was currently still subject to an outstanding warrant for his arrest.

23. The Tribunal concluded that Dr Hassan’s behaviour breached fundamental tenets of the profession namely that doctors should act with honesty and integrity by ensuring that their conduct justified patients’ trust in them and the public’s trust in their profession and that they should co-operate with legal and regulatory requirements by co-operating with formal enquiries and complaints procedures, by providing all relevant information and being open and honest. In the circumstances the Tribunal concluded that Dr Hassan was guilty of serious misconduct.

Impairment

24. The Tribunal having found serious misconduct on the part of Dr Hassan, went on to consider whether, as a result, Dr Hassan's fitness to practise was currently impaired.

25. The Tribunal was cognisant of the fact that Dr Hassan's deliberate breach of bail, and failure to engage with the criminal prosecution, was ongoing and that there was still an outstanding warrant for his arrest.

26. The Tribunal further noted that in Dr Hassan's email to the GMC dated 24 July 2023 he did not explain why he left the UK when he did soon after being charged with serious criminal offences; did not explain why he had failed to surrender to custody in breach of the order granting him bail; and did not say if he would ever return to the UK to engage with the outstanding criminal proceedings. Further, there was no admission by Dr Hassan of any wrongdoing on his part or any apology for his conduct in failing to surrender to custody and absenting himself from the criminal proceedings. There was no evidence of any insight on Dr Hassan's part.

27. Further, the Tribunal considered that Dr Hassan's email correspondence with the GMC showed that he did not intend to substantively engage with the regulatory process and noted that Dr Hassan had not attended the hearing nor made any written representations by email.

28. Having regard to the factors set out in *Grant*, the Tribunal considered that limbs (2) and (3) of *Grant* applied, namely that Dr Hassan had in the past brought and was liable in the future to bring the medical profession into disrepute; and had in the past breached and was liable in the future to breach one of the fundamental tenets of the medical profession.

29. The Tribunal had regard to the statutory overarching objective and was satisfied that the second and third limbs were engaged. It considered that a member of the public in full knowledge of the facts of the case would be seriously concerned by Dr Hassan's conduct and that a finding of impairment was necessary to promote and maintain public confidence in the medical profession; and to promote and maintain proper professional standards and conduct for the members of the profession.

30. Accordingly, the Tribunal has determined that Dr Hassan's fitness to practice is impaired by reason of his serious misconduct.

### Determination on Sanction - 17/05/2024

1. Having determined that Dr Hassan's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

### The Evidence

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant in reaching the decision on sanction.

### Submissions

#### Submission on behalf of the GMC

3. Mr Potts referred the Tribunal to the relevant paragraphs of the *Sanctions Guidance* (2024) ('SG') in particular paragraphs 16, 17, 20, 21, 97, 107, 108, 109 a. b. and j. He submitted that the proved misconduct, which was ongoing with Dr Hassan remaining subject to a warrant of arrest, was so serious that the only appropriate sanction was erasure.

4. Mr Potts submitted that there were no exceptional circumstances in this case to justify no action being taken by the Tribunal. Further, the imposition of conditions, which needed to be workable and measurable, would be inappropriate given (a) the seriousness of Dr Hassan's misconduct in failing to answer to bail and in deliberately absenting himself from the criminal proceedings; and (b) the lack of any confidence that Dr Hassan would comply with any conditions given his ongoing failure to surrender to the court in the criminal proceedings, and his failure to substantively engage with the regulatory proceedings.

5. Similarly, Mr Potts submitted that suspension was not appropriate given (a) the seriousness of the misconduct, which was a serious departure from Good Medical Practice, and (b) Dr Hassan's unwillingness to substantively engage with the regulatory proceedings. He referred the Tribunal to paragraph 97 of the SG and submitted that Dr Hassan's failure to engage demonstrated that remediation was unlikely to be successful. Further, there was repetition of the misconduct every day that Dr Hassan remained '*at large*' and refused to surrender to bail. Mr Potts also submitted that suspension was not appropriate given that Dr

Hassan had not provided any explanation for his conduct or evidence of any insight into his behaviour.

6. Mr Potts referred the Tribunal to paragraph 109 of the SG and submitted that Dr Hassan's conduct amounted to a particularly serious departure from GMP which was difficult to remediate; there had been a deliberate or reckless disregard for the principles set out in GMP, and there was persistent and ongoing lack of insight on the part of Dr Hassan into the seriousness of his actions and their consequences. Mr Potts emphasised that Dr Hassan had taken no steps to remediate or to show insight and that the misconduct was ongoing.

7. Mr Potts submitted that the existence of regulatory oversight was a key component in maintaining public confidence in the profession and also in a patient's confidence in the particular doctor who is treating them. A patient knows that if something goes wrong in their treatment then there are regulatory procedures in place. He submitted that a patient being treated by Dr Hassan could have no confidence that if the doctor faced regulatory intervention in the future *'he would not simply abscond'*. Mr Potts submitted that Dr Hassan had fundamentally breached the trust that had been placed in him by the public, and there would be a loss of public confidence if he were permitted to stay on the medical register.

8. Mr Potts submitted that Dr Hassan's actions had demonstrated a deliberate frustration of the processes of the criminal justice system and of the regulator. In the circumstances, erasure was the only means of protecting the public. He further asserted that Dr Hassan's breaches of GMP were fundamentally incompatible with continued registration. He concluded by stating that erasure was the only sanction in this case that was necessary and proportionate, and which would sufficiently and adequately meet the statutory overarching objective.

### The Tribunal's Determination on Sanction

9. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. There is no burden or standard of proof at this stage. The Tribunal recognised that every case will necessarily turn on its own facts. In reaching its decision the Tribunal took into account its earlier determinations on the facts and on impairment, the SG and GMP, and the submissions of Mr Potts on behalf of the GMC.

10. In reaching its decision, the Tribunal gave careful consideration to the SG and bore in mind that the main purpose of imposing a sanction is to protect the public and not to be punitive, although it may have a punitive effect.

11. In deciding what sanction, if any, to impose, the Tribunal first considered the least restrictive sanction available before moving on to consider the other available sanctions in ascending order of severity.

12. Throughout its deliberations, the Tribunal took into account the overarching objective, and applied the principle of proportionality, balancing Dr Hassan's interests with the public interest.

13. When considering the principle of proportionality, the Tribunal had regard to the judgment in the case of *Bolton v. Law Society* [1994] 1 WLR 512, in which Sir Thomas Bingham stated that '*The reputation of the profession is more important than the fortunes of any one individual member. Membership of a profession brings many benefits, but that is part of the price*'.

## **Aggravating and Mitigating Factors**

### Aggravating Factors

14. The Tribunal considered that a significant aggravating factor was that Dr Hassan had deliberately failed to obey the law and absconded from the criminal proceedings. A warrant for his arrest had been issued which remains live, and his misconduct was ongoing. The Tribunal considered Dr Hassan's behaviour to be unacceptable and unbecoming of a doctor. This was serious misconduct which had a significant impact on the reputation of the profession and put the public's trust in the profession at risk.

15. The Tribunal noted that Dr Hassan had initially engaged in some limited email correspondence with both the GMC and the MPTS having been notified of the regulatory proceedings against him but considered that he had not engaged in any substantive way other than to say that he would not make any representations and he agreed with all the outcomes. The Tribunal considered that Dr Hassan's failure to provide any explanation for his misconduct, or to acknowledge fault or demonstrate any insight into his actions was also a significant aggravating factor.



### Mitigating Factors

16. The Tribunal did not find there to be any mitigating factors. It acknowledged that Dr Hassan's email correspondence with the GMC had referred to difficulties caused by a war in Sudan but considered that this was not mitigation as any such conflict had not prevented the doctor from engaging by email correspondence and at the very least he could have provided an explanation for his conduct by email.

### **Sanction**

17. The Tribunal went on to consider each sanction in order of ascending severity, starting with the least restrictive.

### No Action

18. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

19. The Tribunal did not consider that there were any exceptional circumstances that would justify such a course. It would not be sufficient, proportionate or in the public interest to conclude the case by taking no action.

### Undertakings

20. The Tribunal noted that no undertakings had been offered in this case.

### Conditions

21. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Hassan's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal noted that conditions may be workable where a doctor has insight into their misconduct, where a doctor is likely to comply with conditions, and where a doctor is likely to respond positively to remediation or retraining. The Tribunal considered that none of these factors applied in Dr Hassan's case.

22. The Tribunal determined that the imposition of conditions on Dr Hassan’s registration would be unworkable as it could not have confidence that the doctor would comply with any conditions.

23. The Tribunal further considered that the imposition of conditions on Dr Hassan’s registration would be inappropriate as it would not send a sufficiently robust message to the public or the profession as to the inappropriateness and seriousness of his misconduct, and would be insufficient to maintain public confidence in the profession or to promote and maintain standards for members of the profession.

24. In the circumstances, the Tribunal determined that imposition of conditions upon Dr Hassan’s registration would not satisfy the public interest.

#### Suspension

25. The Tribunal then went on to carefully consider whether imposing a period of suspension on Dr Hassan’s registration would be appropriate and proportionate.

26. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a declaratory signal to the doctor, the profession, and to the public about what is regarded as behaviour unbecoming a registered doctor.

27. The Tribunal took account of the following paragraphs of the SG which indicate circumstances in which it may be appropriate to impose a sanction of suspension:

*‘91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.’*

*‘92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (i.e. for which erasure is more likely to be the appropriate sanction*

*because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*'

'93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions [...].'*

'97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

*a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*

[...]

*e No evidence that demonstrates remediation is unlikely to be successful, e.g. because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

*f No evidence of repetition of similar behaviour since incident.*

*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

28. The Tribunal considered that probity and a willingness to abide by the law of the land was fundamental to the profession. It considered that Dr Hassan's misconduct, which was continuing, and deliberate disregard for the law breached a fundamental tenet of the profession and had brought the profession into disrepute.

29. The Tribunal also had regard to its findings on the lack of any insight and remediation on the part of Dr Hassan.

30. The Tribunal accepted Mr Pott’s submission, made on behalf of the GMC, that if Dr Hassan were to remain on the Medical Register, this would result in a loss of trust in the profession amongst the public.

31. The Tribunal concluded that the seriousness of Dr Hassan’s misconduct and his continued disregard for the criminal justice system and failure to substantially engage with the regulatory proceedings was incompatible with continued registration due to the need to protect the public, to maintain public confidence and to uphold proper professional standards.

32. In the circumstances, the Tribunal determined that suspension of Dr Hassan’s registration would not be appropriate and would not be sufficient to send a message to the profession and the wider public about the gravity of the misconduct.

#### Erasure

33. The Tribunal considered the following paragraphs of the SG:

*‘108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.’*

*‘109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

*a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.*

*b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.*

*[...]*

*j Persistent lack of insight into the seriousness of their actions or the consequences’*

34. The Tribunal considered that Dr Hassan’s unacceptable behaviour and maintained disregard for the integrity of the criminal justice system and failure to substantially engage with the regulatory proceedings was at odds with the fundamental tenets of the profession and the principles as set out in GMP.

35. The Tribunal concluded that Dr Hassan’s continued misconduct was of such a serious nature that erasure was the only appropriate and proportionate sanction to protect, promote and maintain the health, safety and well-being of the public; maintain public confidence in the medical profession, and to uphold proper professional standards and conduct for members of the profession.

36. The Tribunal therefore directed that Dr Hassan’s name be erased from the Medical Register.

#### **Determination on Immediate Order - 17/05/2024**

1. Having determined that Dr Hassan’s name should be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Hassan’s registration should be subject to an immediate order.

#### **Submissions**

##### Submissions on behalf of the GMC

2. Mr Potts submitted that the imposition of an immediate order upon Dr Hassan’s registration was required.

3. Mr Potts informed the Tribunal that an interim order of conditions had previously been imposed upon Dr Hassan’s registration on 21 April 2021, and that the doctor had been present and represented at this particular IOT hearing. He further stated that an IOT review hearing on 12 December 2022, at which Dr Hassan was neither present nor represented, had varied the interim order from conditions to suspension, which remained in place.

4. Mr Potts submitted that the Tribunal should impose an immediate order of suspension given its determinations on impairment and sanction and asserted that an immediate order ought to be in place to protect public confidence in the profession.

### The Tribunal's Determination

5. In reaching its decision, the Tribunal has exercised its own judgement, and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public, is in the public interest, or is in the best interests of the practitioner.

6. The Tribunal had regard to the following paragraphs of the SG:

*'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they [...] may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.'*

*'173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

*'178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'*

7. The Tribunal determined that, due to the serious nature of Dr Hassan's misconduct, an immediate order was both necessary and proportionate.

8. It considered that, for the reasons it has already set out in making its determination on sanction, an immediate order was in the public interest and was necessary to protect patient safety, uphold proper professional standards and conduct for members of the profession and to maintain public confidence in the profession.
9. Further, the Tribunal concluded that public confidence in the profession would be undermined if there were not an immediate order.
10. This means that Dr Hassan's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.
11. The interim order will be revoked when the immediate order takes effect.
12. That concludes this case.

ANNEX A – 13/05/2024

### Service of Notice of the Hearing and proceeding in absence

1. Dr Hassan was neither present nor represented at this hearing.

#### Service of Notice

2. Rule 40 GMC (Fitness to Practise) Rules 2004 (the Rules) which deals with service of notices and documents provides as material:

*'40.*

*(1) Any notice of hearing required to be served upon the practitioner under these Rules shall be served in accordance with paragraph 8 of Schedule 4 to the Act.*

*(2) Subject to paragraph (1), any notice or document required to be served upon the practitioner under these Rules may be served—*

*(a) by ordinary post; or*

*(b) by electronic mail to an electronic mail address that the practitioner has notified to the Registrar as an address for communications.*

*[...]*

*(4) The service of any notice or document under these Rules may be proved by—*

*(a) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service;*

*(b) a confirmation of receipt of the notice or document sent by electronic mail;*  
*or*

*(c) a signed statement from any person serving the notice or document confirming that the notice or document was delivered to, sent to or left at—*

*(i) the practitioner's proper address;*

*(ii) the practising address or electronic mail address of the practitioner's solicitor; or*

*(iii) the business address or electronic mail address of the practitioner's trade union or defence organisation.'*

3. Having considered the contents of the Proof of Service bundle the Tribunal is satisfied that notice of the hearing has been served on Dr Hassan in accordance with Rule 40 and paragraph 8 of Schedule 4 of the Medical Act 1983 as amended for the following reasons.



4. Firstly, Dr Hassan's Work Details Form completed by him on 10 April 2021 stated that he wanted to be contacted by email and provided an email address for communication purposes. The form stated at section 8 that it was Dr Hassan's responsibility to keep this email address up to date and to inform the GMC if it changed. Dr Hassan has not notified the GMC of any change in his email address.

5. Subsequently, Dr Hassan has been sent the following emails at his notified email address:

- Email dated 19 September 2023 informing him that the GMC had referred his case to the MPTS for a hearing and inviting him to participate in the MPTS case management procedure;
- Email dated 26 September 2023 informing him of the first listing teleconference on 9 October 2023, which Dr Hassan obviously received because he replied by email on 27 September 2023 stating:

*'Dear Kate,*

*Thank you for your email.*

*I don't wish to be engaged in any processes from now ongoing or any part of it and I won't be available as I'm in a middle of war in Sudan right now.*

*I'm accepting the decision (sic) that will be taking by the GMC.*

*Thank you for your help.*

*Regards,*

*Mohamed Hassan'*

- Chasing email dated 15 November 2023 hoping to hear from Dr Hassan soon. Dr Hassan received this email and replied by email stating:

*'... As mentioned earlier in previous email, I kindly request to conclude the process of extending my GMC registration and I'm willing everything to stop here.*

*Due to unforeseen circumstances, the war in my area, I find myself in the midst of challenging circumstances and **regretfully anticipate my inability to respond to future correspondences.***

*I appreciate your understanding in this matter.*

*Regards,*

*Mohammed Hassan' (emphasis supplied)*

- Email dated 25 March 2024 attaching the evidence required by Rule 34(9) and the final allegation, to which there was no reply;

- Email dated 3 April 2024 from the MPTS giving notice of the upcoming hearing, to which there was no reply;
- A chasing email dated 4 April 2024 re-sending the email of 3 April 2024 and asking Dr Hassan to confirm that he had received this correspondence and notifying him that in the absence of reply, a hard copy of the letter would be sent by registered post;
- A letter dated 5 April 2024 sent by special delivery to Dr Hassan’s registered address giving notice of the hearing;
- A letter dated 9 April 2024 informing Dr Hassan that a Tribunal hearing would be held virtually on 13 May 2024 sent by first class post.

6. Having considered the above and noting in particular that Dr Hassan had expressly requested to be contacted by email and replied to emails on two occasions, the Tribunal is satisfied that Dr Hassan has been served with notice of the hearing in accordance with the Rules and has been provided with the relevant documents.

7. The question remains as to whether the Tribunal should proceed to consider and determine the Allegation pursuant to its discretion under Rule 31.

8. Rule 31 of the Rules, provides:

‘31.

*Where the practitioner is neither present nor represented at a hearing, the Committee or Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules’*

9. Mr Potts, Counsel, on behalf of the GMC, submitted that the Tribunal should proceed in the doctor’s absence because all reasonable efforts had been made to serve Dr Hassan with notice of the hearing in accordance with the Rules.

10. The Tribunal is conscious that in accordance with the principles set out in *GMC v Adeogba* (2016) EWCA Civ 162, the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

11. In the Tribunal’s judgement the hearing should proceed in the doctor’s absence for the following reasons.
12. Firstly, this course of action would appear to be in accordance with Dr Hassan’s own wishes. In his email of 27 September 2023, Dr Hassan expressly states that he does not wish to be engaged in any processes and that he accepts any decision that will be taken. He effectively repeats this in his email dated 15 November 2023 where he states that he will not be able to respond to future correspondence.
13. Secondly, Dr Hassan has had a sufficient period of time and opportunity to respond to the allegations which included the facility to make written representations. He has not done so and has not suggested that he needs further time to make such representations.
14. Thirdly, there is no application for an adjournment and no suggestion that Dr Hassan would attend any adjourned hearing even if the Tribunal adjourned of its own motion.
15. Fourthly, the Tribunal is conscious of the serious nature of the criminal allegations against Dr Hassan which have led to these proceedings. Given the need to balance fairness to Dr Hassan with fairness to the GMC and also taking the interests of the public into account as well as the context provided by the main statutory objective of the GMC, the Tribunal agrees with Mr Pott’s submission that Dr Hassan’s ongoing non-engagement should not be permitted to prevent the hearing going ahead.
16. Accordingly the Tribunal will proceed to consider and determine the Allegation against Dr Hassan pursuant to its discretion under Rule 31.

## SCHEDULE 1

Possession of indecent photographs of a child, contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988.

Possession of indecent photographs of a child, contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988.

Possession of indecent photographs of a child, contrary to section 160(1), (2A) and (3) of the Criminal Justice Act 1988.

Distributing indecent photographs of a child/children, contrary to Section 1(1)(b) and 6 of the Protection of Children Act 1978.

Possessing an extreme pornographic image, contrary to Section 63(1), (7)(d) and 67(3) of the Criminal Justice and Immigration Act 2008.